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FEB 10 2004

Division of Consumer Affairs

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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
OFFICE OF CONSUMER PROTECTION

IN THE MATTER OF THE	:	Administration Action
APPLICATION OF	:	
	:	
MOISHE'S MOVING SYSTEMS, LLC	:	CONSENT ORDER GRANTING
	:	CONDITIONED LICENSURE UNTIL
TO PRACTICE MOVING AND STORAGE:	:	September 30, 2004 2005
IN THE STATE OF NEW JERSEY	:	
	:	

This matter was opened to the Regulated Business Section of the New Jersey State Division of Consumer Affairs (hereinafter the "Division") upon receipt of a notarized application from Moishe's Moving Systems LLC seeking a license to operate as a mover in the State of New Jersey and upon receipt of a notarized application

from Guarantee Storage Centers, Inc. seeking a license to operate as a warehouseman in the State of New Jersey.¹

Moishe's Moving Systems, LLC which is located at 227 Coles Street, Jersey City, New Jersey, is owned by Gene LeMay who is the President and Managing Member of the corporation. Gene LeMay was previously Vice President of Moishe's Moving & Storage Inc., which was licensed to engage in moving and warehousing services in the State of New Jersey from May 1989 through September 1991. Mr. LeMay was also President of Moishe Moving Systems, Inc. which was never licensed to engage in moving services in New Jersey; yet Moishe's Moving Systems, Inc. offered to perform moving services in New Jersey and performed a move within the State of New Jersey, Moishe's Moving Systems, Inc. is located at 227 Coles Street, Jersey City, New Jersey. Between 1989 and 1993 several Administrative Orders were entered against these corporations in which Gene LeMay was an Officer.

On June 21, 1989, a Final Decision and Order was entered by the Director of the Division against Moishe's Moving & Storage, Inc. wherein the Director found that Moishe's Moving & Storage, Inc. had engaged in the use or employment of dishonesty, fraud, deception, misrepresentation and false pretense when it advertised a fraudulent license number and incorrect name. In addition, the

¹By letter, dated February 10, 2003, Guarantee Storage Centers, Inc. confirmed that it withdrew its application for licensure to engage in warehousing in the State of New Jersey.

Director found that Moishe's Moving & Storage, Inc. had deviated from its officially filed tariff. Moishe's Moving & Storage, Inc. was ordered to cease and desist from advertising a fraudulent license number and/or incorrect name; from deviating from its officially filed tariff; and to pay civil penalties in the amount of \$700.00.

On or about May 7, 1991, a Consent Order was entered after the filing of an Order to Show Cause in which Moishe's Moving & Storage, Inc. was required to demonstrate why its license should not be revoked for failure to maintain a bona fide place of business in New Jersey. Pursuant to the Consent Order Moishe's Moving & Storage, Inc. was ordered to cease and desist engaging in the business of public moving and warehousing unless it established a bona fide place of business in New Jersey and was ordered to pay a civil penalty of \$1,000.00.

When Moishe's Moving & Storage, Inc. operating authority expired in September of 1991, it failed to renew its New Jersey license.

On January 25, 1993, a Consent Order and Agreement, signed by Gene LeMay, as Vice President of Moishe's Moving & Storage, Inc., was entered by the Division wherein Moishe's Moving & Storage, Inc. admitted that it advertised to perform public moving and warehousing within the State of New Jersey without being licensed to do so. Moishe's Moving & Storage, Inc. was ordered to

cease and desist advertising or holding itself out as a provider of intrastate public moving or warehousing services until it was licensed to engage in the providing or contracting to provide intrastate public moving or warehousing services. Moishe's Moving & Storage, Inc. paid a civil penalty of \$4,000.00.

On August 9, 1993, Moishe's Moving & Storage, Inc. and Moishe's Moving Systems, Inc. admitted that on April 23, 1993, it performed a move of household goods from Jersey City, New Jersey to Summit, New Jersey without being licensed to do so and in violation of the Consent Order and Agreement, entered on January 25, 1993. Pursuant to a Consent Order entered on August 9, 1993 in Superior Court, Hudson County, Moishe's Moving & Storage, Inc. and Moishe's Moving Systems, Inc. were permanently enjoined and restrained from advertising or holding themselves out as providers of intrastate public moving or warehousing services or engaging in public moving or warehousing until licensed to engage in the providing or contracting to provide intrastate public moving or warehousing and were ordered to pay a civil penalty of \$5,000.00. Gene LeMay signed the Consent Order.

The Division received copies of sixty-nine consumer complaints that were filed with the Interstate Commerce Commission involving interstate moves between 1992 and 1995 performed by Moishe's Moving & Storage, Inc. and Moishe's Moving Systems, Inc.

Since the Division was concerned with the ability and fitness of this applicant to comply with the State's licensing laws and its President's failure to comply with prior orders when he was an officer of other corporations; a Provisional Order of Denial of Licensure was filed October 31, 2002; respondent submitted a Request for Dismissal of the Provisional Order and Findings of Fact and Conclusions of Law on behalf of Moishe's Moving Systems, LLC. In response to the submission, a settlement conference was conducted to discuss Moishe's Moving Systems, LLC's business plan and ability to comply with licensing statutes and regulations. On January 10, 2003 Gene LeMay and Moishe's Moving Systems, LLC's attorney Michael DeCicco, Esq., met with representatives of the Division, explained their business plan which involved the use of owner operators and set forth Moishe's Moving Systems, LLC's plan to comply with the State's licensing laws.

The Division has now had an opportunity to review the application and the compliance plan set forth by the applicant that Moishe's Moving Systems, LLC and its owner/operators will comply with the statutes and regulations regarding movers in the State of New Jersey and will be liable and responsible for all actions even if illegal or unlicensed, performed by officers, employees, owner/operators or anyone using a vehicle with a Moishe logo. The Division having determined that the POD shall be withdrawn and that the Consent Order with the following restrictions are

adequately protective of the public health, safety and welfare and that the business plan detailed herein shall be reconsidered after the effective date of amended N.J.A.C. 13:44D-4.7 and or September 30, 2004 whichever occurs first.

IT IS on this 10th day of February, ²⁰⁰⁴~~2003~~

1. Moishe's Moving Systems, LLC is granted a license to engage in public moving services in the State of New Jersey subject to the restrictions set forth herein until the end of the current licensure cycle, September 30, ²⁰⁰⁴~~2003~~ to be renewed under the same terms until September 30, ²⁰⁰⁵~~2004~~ then subject to reconsideration. This Consent Order of licensure is not to be construed as a grant of licensure past September 30, ²⁰⁰⁵~~2004~~.

2. Moishe's Moving Systems, LLC will resolve and be responsible for all consumer claims for loss, damage or overcharge for all moves performed pursuant to an estimate prepared on Moishe's Moving Systems, LLC's forms including but not limited to the Order for Service Bill of Lading and in accordance with Moishe's Tariff or performed with a vehicle with a Moishe Logo, decal and/or its license number, even if the vehicle was not authorized to perform moves by Moishe's Moving Systems, LLC.

3. Moishe's Moving Systems, LLC shall provide the Division with a current list of all owner/operators under contract with Moishe's Moving Systems, LLC, including up to date information regarding each owner/operator's name, address, year and vehicle

information, including the vehicle make, year, description, serial number, state of licensure and vehicle license number and whether leased or owned.

4. Moishe's Moving Systems, LLC shall be required to monitor that each owner/operator is in compliance with N.J.S.A. 45:14D-1 et seq. and N.J.A.C. 13:44D-1 et seq., N.J.A.C. 13:45C-1 et seq., and to terminate any owner/operator who fails to comply with the statutes and regulations and this Consent Order within 15 days of the receipt of the information. In the event, an owner/operator is terminated, Moishe's Moving Systems, LLC shall remove or cover the Moishe logo and remove the decal from the owner/operator's vehicle and return the decal to the Regulated Business Section of the Office of Consumer Protection, and notify the Regulated Business Section in writing within 15 days of receipt of information that the owner/operator is in violation of the law and/or the Consent Order.

5. In the event a move is to be performed by an owner/operator, the shipper shall receive notification ^{on the day of} ~~no later~~ ^{the bill of lading is so} ~~than 24 hours in advance of~~ the scheduled move, in ~~writing~~ by Moishe's Moving Systems, LLC of the name and address of the owner/operator, the definition of an owner/operator, the nature of the relationship between Moishe's Moving Systems, LLC and the owner/operator, the statement that Moishe's Moving Systems, LLC shall be completely responsible for the services provided by the

owner/operator and any claims resulting from the services provided by the owner/operator. The notification shall be signed and dated by the shipper consumer and a copy retained by Moishe's Moving Systems, LLC.

6. Each vehicle used by an owner/operator shall have the Moishe logo on the vehicle and the name and address of the owner/operator in smaller print. Each vehicle used for moving services by Moishe's Moving Systems, LLC and/or its owner/operators shall display the decal issued to Moishe's Moving Systems, LLC by the Division on the driver's side door. A duly certified copy of Moishe's Moving Systems, LLC's license shall be carried on each vehicle when the vehicle is being used in the performance of moving services.

7. Within ten days of licensure, Moishe Moving Systems, LLC shall submit a written report explaining its complaint resolution procedure.

8. During the period of licensure contemplated by this Consent Order, Moishe's Moving System, LLC shall submit a written report on the first day of the third month of licensure with a copy of each consumer complaint, all documents issued to the consumer, an explanation of how the complaint was resolved and the name of the person who resolved the complaint. Additional reports shall be submitted on the first day of the sixth, ninth and twelfth month of licensure and thereafter every three months of licensure.

9. Moishe's Moving Systems, LLC. shall require each owner/operator it contracts with to purchase workers compensation, bodily injury and property damage in the amounts required by law. Moishe's Moving Systems, LLC shall maintain documentation of proof of said insurance coverage and produce if requested by the Regulated Business Section, insurance for loss or damage to goods in transit and covering the motor vehicle equipment.

10. Moishe's Moving Systems, LLC shall file with the Regulated Business Section of the Division a certificate of insurance insuring Moishe's Moving Systems, LLC ~~and all its owner/operators~~ from an insurance company authorized and licensed to do business in the State covering all the cargo, providing for payment of all judgments recovered against it as a public mover. It is understood that Moishe's is to verify that the owner/operator have the appropriate insurance on motor vehicles and equipment. The minimum amount of insurance for public movers are set forth in N.J.A.C. 13:44D-4.2(c).

11. Moishe's Moving Systems, LLC shall file a form designating Michael DiCicco, Esq. as its agent upon whom service of process, notice and/or orders may be served for Moishe's Moving Systems, LLC and all its owner/operators. The form shall include the agent's New Jersey street address and municipality. If the agent or the agent's address changes, Moishe's Moving System, LLC

must file the appropriate form to change the agent or the agent's address within seven (7) calendar days.

12. All estimates, orders for service and bills of lading and any document required by the regulations covering public movers for any moves to be performed by an owner/operator shall be prepared on forms with the name and address for Moishe's Moving Systems, LLC and copies of all such forms shall be kept at Moishe's Moving Systems, LLC's place of business.

13. All physical surveys and estimates for moves to be performed by an owner/operator shall be performed by an employee or officer of Moishe's Moving Systems, LLC within the time frames required by law. The consumer and the owner/operator shall be given a copy of the estimate and the consumer leaflet required by N.J.A.C. 13:44D-4.2(a)2. Copies dated by the consumer shall be on file at Moishe's Moving Systems, LLC's office.

14. Moishe's Moving Systems, LLC shall provide all its vehicles and the owner/operator vehicles for inspection by the Regulated Business Section at 227 Coles Street, Jersey City, New Jersey on February 10, 2007. Vehicles cannot be used to perform moving services until the vehicle is inspected. If any vehicle cannot be inspected on that date, Moishe's Moving Systems, LLC will arrange for all other vehicles to be inspected on one additional date at 215 Coles Street, Jersey City, New Jersey.

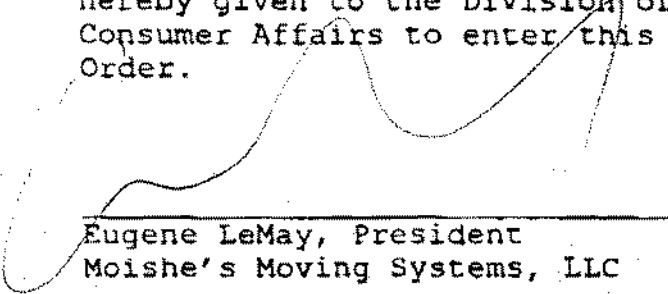
15. In the event, any laws or regulations are enacted which preclude the use of owner/operators, Moishe's Moving Systems, LLC shall be required to conform in a timely manner its business plan to be in compliance with the statute or regulation.


16. All notifications and requirements pursuant to this Order shall be forwarded to Supervisor, Regulated Business Section, P.O. Box 45028, Newark, New Jersey 07101.



Reni Broos, Director
Division of Consumer Affairs

I have read the above order and I understand and agree to abide by its terms. Consent is hereby given to the Division of Consumer Affairs to enter this Order.



Eugene LeMay, President
Moishe's Moving Systems, LLC

Michael DiCicco, Esq.
Attorney for Moishe's Moving
Systems, LLC and Registered Agent